

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Shiloh Maier  
388 East Gardner Street  
Sparta, MI 49345

(b) County of Residence of First Listed Plaintiff Kent County  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mark Small, Esq.  
656 W. Frank St.  
Birmingham, MI 48009  
(248) 376-3110

## DEFENDANTS

Law Office of Mary Jane M. Elliott, P.C.  
24300 Karim Blvd.  
Novi, MI 48375

County of Residence of First Listed Defendant Oakland

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT  | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES   |   |
|---|--|--|---|--|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395f)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input checked="" type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities Other<br><input type="checkbox"/> 448 Education   | <b>PRISONER PETITIONS</b><br><b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement                                |   |  |   |

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1692, et seq

Brief description of cause:

Unlawful Debt Collection Practices

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ TBD

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/09/2015

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

SHILOH MAIER,

Plaintiff,

vs.

LAW OFFICE OF MARY JANE M.  
ELLIOT, P.C.,

Defendant

Case No.: 2:15-cv-12423

CIVIL COMPLAINT

AND

JURY TRIAL DEMAND

COMPLAINT AND JURY TRIAL DEMAND

Plaintiff, Shiloh Maier, on behalf of himself (hereinafter "Plaintiff"), by and through his undersigned attorney, alleges against the Defendant, Law Office of Mary Jane M. Elliot, P.C. (hereinafter "Defendant") as follows:

PRELIMINARY STATEMENT

1. This is an action for damages arising from Defendant's violations of 15 U.S.C. § 1692 *et seq.*, the Fair Debt Collection Practices Act (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices and violations of the Electronic Funds Transfer Act (hereinafter "EFTA") 15 U.S.C. § 1693, *et seq.*, which governs proper protocol for the transfer of electronic funds.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331, 15 U.S.C. §1692 and 15 U.S.C. §1693, *et seq.*
3. Venue is proper in this district under 28 U.S.C § 1391(b).



**PARTIES**

1  
2 4. Plaintiff, Shiloh Maier, is a natural person, who at all relevant times has resided in the  
3 city of Sparta, Kent County, State of Michigan, and is a “consumer” as defined by 15 U.S.C. §  
4 1692a(3).

5 5. Defendant is incorporated and doing business in the State of Michigan, with its corporate  
6 mailing address as 24300 Karim Boulevard, Novi, MI 48375, and is a “debt collector” as defined  
7 by 15 U.S.C § 1692a(6).  
8

9 **FACTUAL STATEMENT**

10 6. At all times relevant to this litigation, Defendant Law Offices of Mary Jane Elliot, P.C.  
11 (hereinafter “MJE” or “Defendant”) sought collection of a consumer debt from Plaintiff Shiloh  
12 Maier (hereinafter “Maier” or “Plaintiff”). The consumer debt collection was sought on, and  
13 stemmed from, a Synchrony Bank credit card (hereinafter the “subject account”), which was  
14 used primarily for household and personal purposes.  
15

16 7. In early November of 2014, Maier agreed to make a payment of \$40.00 on the subject  
17 account. This agreement was made during the course of a telephone conversation and the means  
18 of payment was to be an electronic funds transfer from Maier’s checking account electronically  
19 administered by MJE; pertinent details of the asset bearing account were provided to MJE during  
20 the same call. The agreement provided that the funds were to be automatically transferred from  
21 Maier’s account on November 18, 2014.  
22

23 8. The agreement allowing for MJE to electronically transfer funds from her asset bearing  
24 checking account, to an account specified by MJE, was NOT reduced to a writing duly executed  
25 by Maier. The only authorization MJE had was Maier’s oral authorization over the telephone.  
26  
27  
28

1 9. November 18, 2014 came and passed without MJE initiating the electronic transfer of  
2 funds as agreed upon. In fact, MJE did not request the electronic transfer of funds until months  
3 later, on January 13, 2015. The fact that the electronic transfer request was requested on the 13<sup>th</sup>  
4 of January 2015 has been independently verified by the Assistant Vice President for Independent  
5 Bank (Maier's banking institution), Bridget Murphy.

6 10. The electronic transfer of these funds on an unauthorized date has caused much hardship  
7 to Maier in the form of fees and penalties incurred by her as a result on there being insufficient  
8 funds in the asset bearing account at the time of the unauthorized transfer.  
9

10  
11 **COUNT I**  
12 **VIOLATION OF THE FAIR DEBT COLLECTIONS PRACTICES ACT**  
13 **15 U.S.C. §1692(e)(8)**

14 11. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 11 above  
15 and incorporates them as if set forth specifically herein.

16 12. At all times relevant to this litigation, Defendant Law Offices of Mary Jane Elliot, P.C.  
17 (hereinafter "MJE" or "Defendant") sought collection of a consumer debt from Plaintiff Shiloh  
18 Maier (hereinafter "Maier" or "Plaintiff"). The consumer debt collection was sought on, and  
19 stemmed from, a Synchrony Bank credit card (hereinafter the "subject account"), which was  
20 used primarily for household and personal purposes.  
21

22 13. In early November of 2014, Maier agreed to make a payment of \$40.00 on the subject  
23 account. This agreement was made during the course of a telephone conversation and the means  
24 of payment was to be an electronic funds transfer from Maier's checking account electronically  
25 administered by MJE; pertinent details of the asset bearing account were provided to MJE during  
26 the same call. The agreement provided that the funds were to be automatically transfer from  
27 Maier's account on November 18, 2014.  
28



1 14. The agreement allowing for MJE to electronically transfer funds from her asset bearing  
2 checking account, to an account specified by MJE, was NOT reduced to a writing to be duly  
3 executed by Maier. The only authorization MJE had was Maier's oral authorization over the  
4 telephone.

5 15. November 18, 2014 came and passed without MJE initiating the electronic transfer of  
6 funds as agreed upon. In fact, MJE did not request the electronic transfer of funds until months  
7 later, on January 13, 2015. The fact that the electronic transfer request was requested on the 13<sup>th</sup>  
8 of January 2015 has been independently verified by the Assistant Vice President for Independent  
9 Bank (Maier's banking institution), Bridget Murphy.

10 16. The electronic transfer of these funds on an unauthorized date has caused much hardship  
11 to Maier in the form of fees and penalties incurred by her as a result of there being insufficient  
12 funds in the asset bearing account at the time of the unauthorized transfer.

13 17. Defendant's actions and inactions are in direct contravention of 15 U.S.C. §1692(e) Pre-  
14 face, 15 U.S.C. §1692(e)(10), 15 U.S.C. §1692(f) Pre-face.

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17  
18 **COUNT II**  
19 **VIOLATION OF THE ELECTRONIC FUNDS TRANSFER ACT**  
20 **15 U.S.C. § 1693, et seq.**

21 18. Plaintiff repeats the allegations set forth in paragraphs 1 through 17 and incorporates  
22 same as if set forth at length herein.

23 19. In early November of 2014, Maier agreed to make a payment of \$40.00 on the subject  
24 account. This agreement was made during the course of a telephone conversation and the means  
25 of payment was to be an electronic funds transfer from Maier's checking account electronically  
26 administered by MJE; pertinent details of the asset bearing account were provided to MJE during  
27  
28

1 the same call. The agreement provided that the funds were to be automatically transfer from  
2 Maier's account on November 18, 2014.

3 20. The agreement allowing for MJE to electronically transfer funds from her asset bearing  
4 checking account, to an account specified by MJE, was NOT reduced to a writing to be duly  
5 executed by Maier. The only authorization MJE had was Maier's oral authorization over the  
6 telephone.  
7

8 21. November 18, 2014 came and passed without MJE initiating the electronic transfer of  
9 funds as agreed upon. In fact, MJE did not request the electronic transfer of funds until months  
10 later, on January 13, 2015. The fact that the electronic transfer request was requested on the 13<sup>th</sup>  
11 of January 2015 has been independently verified by the Assistant Vice President for Independent  
12 Bank (Maier's banking institution), Bridget Murphy.  
13

14 22. The electronic transfer of these funds on an unauthorized date caused much hardship on  
15 Maier in the form of fees and penalties incurred by her as a result of there being insufficient  
16 funds in the asset bearing account at the time of the unauthorized transfer.  
17

18 23. Defendant's actions and inactions are in direct contravention of 15 U.S.C. §1693(e),  
19 which requires preauthorized electronic funds transfers to be authorized only in a writing  
20 executed by the consumer.

21 24. As a direct result of Defendant's actions, Plaintiff has been damaged.  
22

23 **JURY TRIAL DEMAND**

24 23. Plaintiff demands a trial by jury on all issues so triable.  
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28

**RELIEF**

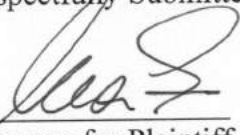
WHEREFORE, Plaintiff, Shiloh Maier, requests that this Court grant the following relief against the Defendant and on behalf of Plaintiff:

- a. That an order be entered declaring the Defendant's actions in this matter, to be in violation of the FDCPA and the EFTA;
- b. That judgment be entered against the Defendant for actual damages
- c. That judgment be entered against the Defendant for statutory damages, pursuant to 15 U.S.C. § 1692k(a)(2)(A) and (B), in the amount of \$1,000.00;
- d. That judgment be entered against the Defendant for statutory damages, pursuant to 15 U.S.C. § 1693(m)(a)(2)(A).
- e. That the court award costs and reasonable attorneys' fees, pursuant to 15 U.S.C. § 1692k(a)(3):
- f. That the Court grant such other and further relief as may be just and proper.

Dated this 9<sup>th</sup> day of July, 2015

Respectfully Submitted,

s/

  
Attorney for Plaintiff  
Mark Small, Esq. (P26976)  
656 W. Frank St.  
Birmingham, MI 48009  
(248) 376-3110

Of Counsel for the Firm:  
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